

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DALE E. HARPER,)	
)	
Plaintiff,)	
vs.)	Case No. CIV-11-0996-HE
)	
WOODWARD COUNTY BOARD)	
OF COUNTY COMMISSIONERS,)	
<i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Plaintiff Dale E. Harper, a state prisoner appearing *pro se* and *in forma pauperis*, filed this § 1983 action against multiple defendants, alleging his civil rights were violated in conjunction with his arrest, detention and prosecution in Woodward County, Oklahoma.

Consistent with 28 U.S.C. § 636(b)(1)(B), (C), the matter was referred for initial proceedings and Magistrate Judge Suzanne Mitchell has recommended that plaintiff's claims asserted against four new defendants, Travis Munson, James Rea, Mike Morton and Barrett Storm, be stayed under Younger v. Harris, 401 U.S. 37 (1971), along with other claims plaintiff has asserted that relate to his arrest and prosecution that have been stayed.


Plaintiff objects to the Report and Recommendation, asserting that he has filed motions to quash in the state criminal proceedings that have not been ruled upon and that the prosecutions are retaliatory. Plaintiff has not, however, demonstrated that any of Younger's exceptions, such as irreparable harm, harassment or bad faith prosecution, apply. See Wilson v. Morrissey, 2013 WL 2477321, at * 2 (10th Cir. June 11, 2013) ("A court will not abstain

under Younger ‘in cases of proven harassment or prosecutions undertaken by state officials in bad faith without hope of obtaining a valid conviction and perhaps in other extraordinary circumstances where irreparable injury can be shown.’”) (quoting Perez v. Ledesma, 401 U.S. 82, 91 (1971)), *cert. denied*, (U.S. Oct. 7, 2013) (No. 13-5288)). He offers nothing more than conclusory allegations which are insufficient to meet his “‘heavy burden’ to overcome the bar of Younger abstention.” *Id.* (internal quotations omitted).

Accordingly, the court adopts Magistrate Judge Mitchell’s Report and Recommendation and stays plaintiff’s claims against defendants Munson, Rea, Morton and Storm based on Younger abstention.¹

IT IS SO ORDERED.

Dated this 5th day of November, 2013.



JOE HEATON
UNITED STATES DISTRICT JUDGE

¹*The court has taken judicial notice of court records for Woodward County, which reflect that plaintiff’s prosecution is ongoing. The parties are directed to advise the court of the termination of those proceedings within fifteen days of their conclusion.*